

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

METROPOLITAN TRANSIT SYSTEM AND
DEVELOPMENT BOARD
THOMAS F. LARWIN,
GENERAL MANAGER
1255 IMPERIAL AVE., SUITE 1000
SAN DIEGO, CA 92101-1047
NONCOMPLIANCE WITH STATE BOARD
ORDER NO. 99-08-DWQ

)
) COMPLAINT NO. R9-2005-0062
) FOR
) ADMINISTRATIVE CIVIL LIABILITY
)
) March 17, 2005
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**THE METROPOLITAN TRANSIT SYSTEM AND DEVELOPMENT BOARD IS
HEREBY GIVEN NOTICE THAT:**

1. The Metropolitan Transit System and Development Board (MTDB) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under section 13385 of the California Water Code.
2. MTDB owns and operates a construction site known as "Mission Valley East Light Rail Transit Project (LRT) site". The LRT site, of 134 acres, spans approximately six miles aboveground from the community of Grantville in the city of San Diego, underground through San Diego State University, and then back aboveground to the western side of the city of La Mesa near Interstate 8. The LRT site is subject to waste discharge requirements, contained in *State Water Resources Control Board (9SWRCB) Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity* (Order No. 99-08-DWQ). MTDB enrolled for regulation under these requirements on May 29, 2001 (WDID No. 37S315837).

ALLEGATIONS

3. Discharge of Sewage to Waters of the Nation
MTDB discharged sewage to waters of the nation in violation of State Board Order No. 99-08-DWQ section A.2. Sewage was discharged from the LRT site to Alvarado Creek on October 27, 2004.

4. Discharge of Sediment to a MS4 and Waters of the Nation

MTDB discharged sediment to a Municipal Separate Storm Sewer System (MS4) and waters of the nation in violation of State Board Order No. 99-08-DWQ section A.2. Sediment was discharged from the LRT site to Alvarado Creek directly or via the City of San Diego's MS4 on at least 27 days:

No.	Date	No.	Date	No.	Date
1.	8/21/2002	11.	2/5/2004	21.	10/5/2004
2.	8/26/2002	12.	2/11/2004	22.	10/17/2004
3.	9/6/2002	13.	2/18/2004	23.	10/18/2004
4.	11/9/2002	14.	2/23/2004	24.	10/19/2004
5.	11/29/2002	15.	2/26/2004	25.	10/20/2004
6.	12/16/2002	16.	3/2/2004	26.	10/27/2004
7.	2/19/2003	17.	3/3/2004	27.	12/6/2004
8.	2/25/2003	18.	4/17/2004		
9.	3/15/2003	19.	4/19/2004		
10.	12/25/2003	20.	10/4/2004		

5. Failure to Implement Storm Water Pollution Prevention Plan

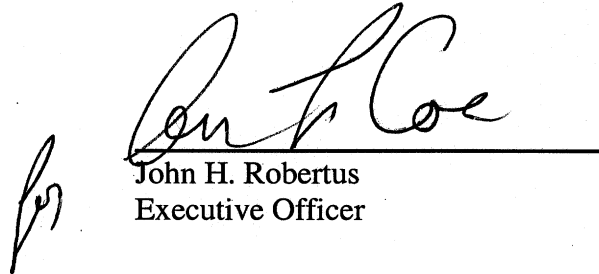
MTDB failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to implement adequate and/or maintain Best Management Practices (BMPs) in violation of State Board Order No. 99-08-DWQ section C.2 during the rain season on at least 449 days:

- a. October 1, 2002 through April 30, 2003 (211 days);
- b. October 1, 2003 through April 30, 2004 (212 days); and
- c. October 1, 2004 through October 27, 2004 (26 days).

PROPOSED CIVIL LIABILITY

6. Based on consideration of the factors listed in section 13385 of the California Water Code, civil liability should be imposed on the Metropolitan Transit System and Development Board by the Regional Board in the amount \$500,000 for all the violations, as follows:
- a. \$10,000 for the violation described in paragraph No. 3;
 - b. \$270,000 for the violations described in paragraph No. 4; and
 - c. \$220,000 for the violations described in paragraph No. 5.

Dated this 17th day of March 2005


John H. Robertus
Executive Officer